

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CHARLES “CHED” MACQUIGG,

Plaintiff,

vs.

Civ. No. 12-1137 MCA/KBM

THE ALBUQUERQUE PUBLIC
SCHOOLS BOARD OF EDUCATION,
et al.,

Defendants.

ORDER TO SHOW CAUSE

This matter is before the Court *sua sponte*. In the course of considering the parties’ arguments with respect to Counts VII and VIII, Plaintiffs state-law claims based upon the New Mexico Inspection of Public Records Act, the Court has become convinced that resolution of these claims will require the Court to address issues as to which there is no controlling New Mexico Supreme Court precedent: (1) whether the report of the Access Investigation is a matter of opinion in a personnel file, and (2) whether a requesting party’s failure to seek state district court review of the denial of a request for a specific request, NMSA 1978, § 14-2-12, renders the denial *res judicata* as to subsequent requests for the same record.

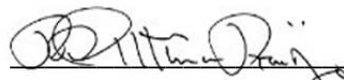
“The Supreme Court has instructed that ‘a federal court should consider and weigh in each case, and at every stage of the litigation, the values of judicial economy,

convenience, fairness, and comity in order to decide whether to exercise jurisdiction over a case brought in that court involving pendent state-law claims.” *Merrifield v. Bd. Cnty. Comm’rs for the Cnty. of Santa Fe*, 654 F.3d 1073, 1085 (10th Cir. 2011) (quoting *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 (1988)). Although certification will produce authoritative answers to state law questions of first impression, in the Court’s experience it can be a relatively lengthy procedure. The Court concludes that the interests identified by the Supreme Court will be served in this case by dismissal without prejudice of Counts VII and VIII pursuant to 28 U.S.C. § 1367(c)(1).

To afford the parties an opportunity to be heard prior to the Court taking the action described in the preceding sentence, the Court will allow the parties an opportunity to show cause why Counts VII and VIII of the Amended Complaint should not be dismissed without prejudice.

WHEREFORE, IT HEREBY IS ORDERED that the parties shall show cause by 5:00 p.m., October 16, 2014, why Counts VII and VIII of the Amended Complaint [Doc. 22] should not be dismissed without prejudice.

So ordered this 9th day of October, 2014.



M. CHRISTINA ARMIJO
Chief United States District Judge